

Planning for the Future Legal Aspects to Consider©

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What are we going to discuss today?

In light of Hypothetical Number #1

- Our friend born in Puerto Rico, relocated to New Jersey with property in P.R.
 - Community Property
 - Inheritance
 - Wills



Some Basic Concepts

- Domicile and Residence
- Personal and Real Property




Community Property v. Ante-Nuptial Agreements

- Effect of each one at time of death
- Community Property - 50/50% Rule
- Ante-nuptial Agreements - Each spouse keeps her/his property




Particular Cases

- Pension Plans
- Savings Plans (401K's and 365e's)
- Bank and other Joint Accounts
- Life Insurance policies



Inheritance and Heirs by Reason of Death



When a person dies, one of two successions happens

- Testamentary
- Intestate




What is the first thing one must decide?

- Whether to accept or reject; or
- If accepted, whether unconditionally on condition that an inventory be made



Why is this important?

- Because once accepted unconditionally, the heir inherits everything (good and bad)
- For Example - the house and the mortgage



Before talking about wills, we have to
talk about...

- The rules of the One thirds
- Who are the forced (obligatory) heirs?



The thirds are

- Legal Portion ("Legitima")
- Extra Portion ("Mejora")
- Free Disposal



Legitima

- To children/descendants or
- In their absence, parents
- In equal parts




Mejora

- To children and descendants
- In the proportion the testator wants



Free Disposal


- To anyone

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- The widow(er) is also a forced heir in the widow(er) quota




Wills

- For a “P.R.- born” person domiciliary of New Jersey
Applicable law will be New Jersey,
except for real property located in P.R.




Wills (*cont.*)

- For real property located in P.R.
Property must be devised according to P.R. law




Wills (*cont.*)

- If the will is probated in New Jersey, then
 - the will must be domesticated in P.R. via *exequatur*



Wills (*cont.*)

- If there is no will, then
A court proceeding known as a declaration of heirs “Declaratoria de Herederos” is required.

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- In the absence of a will, the real property will be devised according to the rules intestate inheritance

- #1st order - Descendants
- #2nd order - Ascendants
- #3rd order - Collaterals - brothers, sister and nieces and nephews
- #4th order - Surviving Spouse
- #5th order - Other relatives
- #6th order - Commonwealth of P.R.



Questions?